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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,865	07/02/2003	Thomas W. Holmquist	10003232-2	4389

7590 12/28/2004
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

ZEADE, BERTRAND

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,865	Applicant(s) HOLMQUIST ET AL.	
	Examiner Bertrand Zeade	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45 is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the Holmquist's patent ('525) includes the embodiment of the at least one flexible member, which is not present in the pending claim 1. Examiner agrees with the Applicant without traverse. The statutory double patenting has been withdrawn.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-44 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-44 of U.S. Patent No. 6752525. Although the conflicting claims are not identical, they

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are not patentably distinct from each other because they are broader than U.S.

Patent's claims.

3. Holmquist et al 6,752,525 discloses a light emitting device providing a collimated light beam having:

Claims of Instant Application	Claims of reference: Holmquist et al. (U.S. 6,752,525)	Discussion on differences In the claimed limitations
Claim 1	Claim 1	Claim 1 of the instant application is broader in scope than claim 1 of the Patent ('525).
Claim 2	Claim 2	The limitations are identical
Claim 3	Claim 3	The limitations are identical
Claim 4	Claim 4	The limitations are identical
Claim 5	Claim 5	The limitations are identical
Claim 6	Claim 6	The limitations are identical
Claim 7	Claim 7	The limitations are

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		identical
Claim 8	Claim 8	The limitations are identical
Claim 9	Claim 9	The limitations are identical
Claim 10	Claim 10	The limitations are identical
Claim 11	Claim 11	The limitations are identical
Claim 12	Claim 12	The limitations are identical
Claim 13	Claim 13	The limitations are identical
Claim 14	Claim 14	The limitations are identical
Claim 15	Claim 15	The limitations are identical
Claim 16	Claim 16	The limitations are identical
Claim 17	Claim 17	The limitations are identical
Claim 18	Claim 18	Claim 18 of the instant

		application is broader in scope than claim 18 of the patent ('525)
Claim 19	Claim 19	The limitations are identical
Claim 20	Claim 20	The limitations are identical
Claim 21	Claim 21	The limitations are identical
Claim 22	Claim 22	The limitations are identical
Claim 23	Claim 23	The limitations are identical
Claim 24	Claim 24	The limitations are identical
Claim 25	Claim 25	The limitations are identical
Claim 26	Claim 26	The limitations are identical
Claim 27	Claim 27	The limitations are identical
Claim 28	Claim 28	The limitations are

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		identical
Claim 29	Claim 29	The limitations are identical
Claim 30	Claim 30	The limitations are identical
Claim 31	Claim 31	The limitations are identical
Claim 32	Claim 32	Claim 32 of the instant application is broader in scope than claim 32 of the patent ('525) .
Claim 33	Claim 33	The limitations are identical
Claim 34	Claim 34	The limitations are identical
Claim 35	Claim 35	The limitations are identical
Claim 36	Claim 36	The limitations are identical
Claim 37	Claim 37	The limitations are identical
Claim 38	Claim 38	The limitations are

		identical
Claim 39	Claim 39	The limitations are identical
Claim 40	Claim 40	The limitations are identical
Claim 41	Claim 41	The limitations are identical
Claim 42	Claim 42	The limitations are identical
Claim 43	Claim 43	The limitations are identical
Claim 44	Claim 44	The limitations are identical

The limitations disclosed by Holmquist et al. (U.S. Patent #6752525) are considered functionally equivalent to the limitations cited in claims 1-44 of the instant application.

Allowable Subject Matter

1. Claim 45 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record neither teach nor show means for detecting the substantially collimated light beam, and a light path associated with the substantially collimated light beam extending between the light emitter and the

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light receiver, at least a portion of the light path being adjacent the at least one media holding bay.

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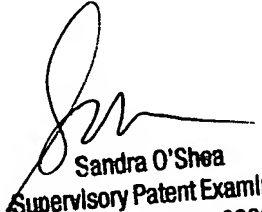
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bertrand Zeade whose telephone number is 571-272-2387. The examiner can normally be reached on 9:30 AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bertrand Zeade
Examiner
Art Unit 2875


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800